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NMS Supply, Inc., J.W. Construction, Inc., and
9 David R. Whiteside
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11 UNITED STATES DISTRICT COURT
12 NORTHERN DISTRICT OF CALIFORNIA
13 SAN FRANCISCO DIVISION

14 WALTER PEREZ ESCOBAR, MARGARITO
GONZALEZ, and FRANCISCO CISNEROS-
15 ZAVALA, individually and on behalf of all others
similarly situated

16 Plaintiff,
17

18 v.

19 WHITESIDE CONSTRUCTION CORPORATION,
NMS SUPPLY, INC., J.W. CONSTRUCTION,
20 INC., and DAVID R. WHITESIDE

21 Defendants.
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) Case No. CV 08 1120 WHA
)
) **DECLARATION OF RAUL PALACIO**
) **IN OPPOSITION TO PLAINTIFFS'**
) **MOTION FOR CERTIFICATION OF**
) **FAIR LABOR STANDARDS ACT**
) **COLLECTIVE ACTION AND**
) **APPROVAL OF NOTICE**
)

) Date: August 21, 2008
) Time 8:00 a.m.
) Courtroom: 9
) Judge: Hon. William Alsup
)
)

1 I, Raul Palacio, declare:

2 1. I have personal knowledge of the facts set forth herein, and if called as a witness, I
3 could and would competently testify thereto. I am 24 years old. Since I do not read English very
4 well, this declaration has been translated verbally (sight translated) for me into Spanish, my native
5 language.

6 2. I make this declaration voluntarily, and I have not been pressured by anyone to
7 provide this declaration. Further, I have not received any payment or promise of future
8 consideration for this declaration.

9 3. I have been employed by Whiteside Construction Corporation for a total of
10 approximately three years. I have been employed as a union laborer during my employment with
11 Whiteside Construction. My pay rate is determined by the Company's union contract with the
12 Laborers Union.

13 4. Currently, I drive my own car from my home directly to the job site in the morning.
14 At the beginning of my employment, I went to the Company's yard in Richmond before work
15 approximately three times a week to get a ride to the job site. I did so because I was not familiar
16 with the areas where the job sites were located, and I did not want to get lost. Over time, as I have
17 become more familiar with the areas where the job sites are located, I have gone first to the yard
18 less frequently. Over the past year, I have gone to the yard in the morning a couple of times. I
19 have done so either to get a ride myself or to pick up other employees and drive them in my own
20 car. At the beginning of my employment with Whiteside Construction, I was told that employees
21 have the option either to go directly to the job site at the beginning of the day or to go to the yard
22 and obtain a ride from the foreman on their job. To my knowledge, the Company does not require
23 employees to report to the yard every day before the beginning of the day's shift.

24 5. Only a few times when I have gone to the yard first have I helped load a company
25 truck before driving to the job site. Each time that I helped load the truck, it took only a couple of
26 minutes, and I did so on my own as a favor to the foreman so we could get on the road. Nobody
27 directed or ordered me to help load the truck.

Executed this 30 day of July, 2008, at SOUTH, SAN FRANCISCO California.

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1 I, Irene R. Tenney, do solemnly affirm under penalty of perjury under the laws of the State
2 of California and of the United States that I have, using my best skill and judgment and in the
3 presence of Juan Alfonso Alfaro,, justly, truly, and impartially made a true verbal translation in the
4 Spanish language of the attached is document for Declaration Of Raul Palacio In Opposition To
5 Plaintiffs' Motion For Certification Of Fair Labor Standards Act Collective Action And Approval
6 Of Notice for Juan Alfonso Alfaro.

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8 Date: July 30, 2008

9  US/CATI
Irene R. Tenney
10 Federally and State Certified Interpreter-Translator
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